

**REMARKS**

Favorable reconsideration of this application is respectfully requested in view of the following remarks.

Applicants acknowledge the need to surrender original United States Letters Patent No. 6,062,641 before this reissue application can be allowed. Upon indication that this application is otherwise in condition for allowance, applicants will surrender the original letter patent.

As discussed in the prior response, a minor inadvertent error was noted in Fig. 1 with respect to the lead line for reference numeral "32" identifying the Peltier element. It is understood from the most recent Official Action that the earlier submitted proposed drawing changes would be acceptable if Fig. 1 is identified as "Amended". Submitted with this Amendment is another Request for Approval of Proposed Drawing Changes presenting the same proposed drawing changes as before, except that Fig. 1 has been identified as "Amended". Consideration and approval of the proposed drawing changes are respectfully requested. Upon approval of the proposed drawing changes, new drawings complying with 37 C.F.R. §§ 1.84 and 1.173(b)(3) will be submitted.

The Official Action sets forth a rejection of Claims 16-33 on the basis of the disclosure contained in U.S. Patent No. 5,524,439 to *Gallup et al.* in view of the disclosure contained in U.S. Patent No. 4,923,248 to *Feher*. To more clearly highlight differences between the claimed seat apparatus at issue here and the disclosures relied upon in *Gallup et al.* and *Feher*, the versions of new independent Claims 16, 21 and 26

submitted with the Amendment filed on May 6, 2002 have been amended. The paper accompanying this Amendment discusses how the versions of new independent Claims 16, 21 and 26 presented here have been changed relative to the versions of those claims submitted with the May 6, 2002 Amendment.


The accompanying paper also points out how the versions of new dependent Claims 17, 20, 22, 23, 25, 27, 28 and 34 presented here have been changed relative to the versions of those claims presented previously. Finally, the accompanying paper identifies examples of where support exists in the patent for the new claim wording in the aforementioned claims as well as newly presented Claims 35-37. .

In addition, to assist the Examiner, the attachment to this Amendment identifies how new Claims 16, 17, 20, 21 22, 23, 25, 26 27, 28 and 34 presented in this Amendment differ from the earlier versions of those claims presented in the Amendment filed on May 6, 2002. Additions to the earlier versions of 16, 17, 20, 21 22, 23, 25, 26 27, 28 and 34 are noted with underlining while deletions are noted with bracketing.

Addressing the rejection based on the disclosure contained in *Gallup et al.* in view of the disclosure contained in *Feher*, *Gallup et al.* discloses a temperature climate control system used in a variable temperature seat. As illustrated in Fig. 1 of *Gallup et al.*, the seat includes a seat back 12 and a seat bottom 14, each comprised of a cushion and a padding layer 16, 17 covering the cushion. *Gallup et al.* describes that a number of air channels 20 extend from the padding layer 17 through the seat cushion to the seat bottom air inlet 22 or the seat back air inlet 24. In addition, respective heat pumps 26, 28 are

provided for temperature conditioning the air passing through the seat back and the seat bottom.

The claimed seat apparatus defined in independent Claim 16 differs from the disclosure contained in *Gallup et al.* in that the claimed seat apparatus includes at least three grooves each communicating with the end of the air vent in the filling member that opens toward the sitting side. This is not the case with the seat construction disclosed in *Gallup et al.* *Gallup et al.* proposes providing a seat bottom air inlet 22 that opens into a plurality of air channels 20 which extend upwardly through the seat cushion. Thus, with the seat disclosed in *Gallup et al.*, temperature controlled air apparently flows up to the padding layer 17 by way of the air channels. The air is thus not fed into an air vent provided in the cushion and is not directed from the outlet of such an air vent into at least three grooves as claimed.



New independent Claims 21 and 26 are also patentably distinguishable over the disclosure contained in *Gallup et al.* Independent Claim 21 defines that a plurality of spaced apart grooves extending over a limited surface area of the filling member, that the air vent has one end communicating with the grooves such that the grooves branch from the one end of the air vent, and that the fan communicates with the opposite end of the air vent to direct air towards the air vent such that the air is fed into the air vent and is directed by way of the plurality of spaced apart grooves to selected portions of an individual in contact with the sitting side of the seat cushion or seat back.

New independent Claim 26 also defines the plurality of spaced apart grooves, and recites that the grooves extend to selected portions of the filling member. In addition, new independent Claim 26 sets forth that one end of the air vent communicates with the plurality of grooves such that the grooves branch from the one end of the air vent and further defines that the peltier element communicates with the opposite end of the air vent to control the temperature of air fed to the air vent and directed by way of the plurality of grooves to the selected portions of the filling member to provide temperature controlled air to an individual seated on the seat cushion or seat back.

The claimed seat apparatus defined in independent Claims 21 and 26 also differs from the disclosure contained in *Gallup et al.* For example, *Gallup et al.* does not disclose a plurality of spaced apart grooves extending to selected portions of the filling member and communicating with one end of an air vent such that the grooves branch from the one end of the air vent while the opposite end of the air vent communicates with a peltier element that controls the temperature of the air fed to the air vent so that the air is directed by way of the grooves to the selected portions of the filling member as set forth in Claim 26. In a somewhat similar manner, *Gallup et al.* does not disclose a plurality of spaced apart grooves communicating with and branching from one end of an air vent whose opposite end communicates with a fan which directs air towards the air vent such that the air is fed into the air vent and is directed by way of the grooves to selected portions of an individual in contact with the sitting side of the seat cushion or seat back as set forth in Claim 21. Indeed, *Gallup et al.* is not at all concerned with how air is directed through the cushion.

For this reason, *Gallup et al.* simply provides air channels 20 extending from the bottom side of the cushions to the top side of the cushions.

*Feher* is relied upon for its disclosure of a heated seating pad in which a mesh is placed over the top surface of coil springs. Regardless of what *Feher* may disclose in this regard, *Feher* does not make up for the deficiencies pointed out above with respect to the disclosure contained in *Gallup et al.* Accordingly, a combination of the disclosures contained in *Gallup et al.* and *Feher* would not have directed one to construct a seat apparatus having the features recited in new independent Claims 16, 21 and 26. Accordingly, withdrawal of the rejections of record are respectfully requested.

The Official Action also relies upon the disclosure contained in U.S. Patent No. 2,782,834 to *Vigo*. The Official Action observes that *Vigo* discloses grooves possessing a bottom wall and side walls. However, *Vigo* discloses nothing more than a chair having a hollow seat 12 and a hollow back 13, each defined by a respective top plate 15, 17 provided with a plurality of apertures 16, 18. Air is thus directed into the hollow seat and the hollow back and flows out through the apertures 16, 18. There is thus no disclosure in *Vigo* of providing a filling member of a seat cushion or seat back with air directing grooves having a bottom and side walls as claimed.

The new dependent claims set forth further aspects of the claimed invention that further distinguish over the disclosures contained in the documents relied upon in the Official Action. For example, Claims 17, 36 and 37 define that the grooves are located in areas to which high pressures are applied by an individual seated on the sitting portion.

Quite clearly, *Gallup et al.* nor any of the other documents relied upon in the Official action discloses this claimed aspect.

Also, Claims 22, 27 and 35 define that the air vent constitutes the only air vent. This is quite different from the disclosure in *Gallup et al.* which shows multiple air channels extending through the cushions.

For at least the reasons discussed above, withdrawal of the rejections of record is respectfully requested.

The middle portion of page three of the Official Action indicates that the originally submitted reissue Declaration is defective because the error is based on recaptured subject matter. The following portion of the Official Action then sets forth a rejection of Claims 1-34\* as being based upon a defective reissue Declaration under 35 U.S.C. § 251 and sets forth a rejection of Claims 16-34 under 35 U.S.C. § 251 as being an improper recapture of broadened claim subject matter surrendered in the application for the patent upon which the present application for reissue is based. It is understood that the various issues raised beginning in the middle portion of page three of the Official Action all relate to the common issue of recapture. The arguments below are based on this understanding.

As the Examiner is aware, the recapture rule is intended to prevent a patentee from obtaining through reissue subject matter that was affirmatively surrendered during the initial patent prosecution to distinguish over the prior art. *B.E. Meyers & Co. v. United*

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\*It is assumed that this reference to Claims 1-34 is an inadvertent typographical error and was not intended to include original patent Claims 1-15.

*States*, 56 USPQ.2d 1100, 1115 (Fed. Cls. 2000). The Federal Circuit has thus held that the "recapture rules bars the patentee from acquiring through reissue, claims that are of the *same* or of *broader scope* than those claims that were cancelled from the original application." *Ball Corp. v. United States*, 221 USPQ 289, 295 (Fed. Cir. 1984) (emphasis in original). To understand what, if any, subject matter was surrendered here, it is necessary to consider the prosecution of the application that issued as U.S. Patent No. 6,062,641 (the '641 patent) -- the patent upon which this application for reissue is based.

As pointed out at the time this application for reissue was filed, new independent Claims 16, 21 and 26 presented in this reissue application are based on independent Claim 1 of the '641 patent. As a starting point, it is thus useful to examine the prosecution relating to patent Claim 1, particularly as it relates to the recitation in patent Claim 1 of the "material positioned in the at least one groove." It is understood from the Official Action that it is the absence of this language from the new claims presented in this application for reissue that has caused the Examiner to consider whether recapture applies here.

The '641 patent upon which this reissue application is based issued from U.S. Patent Application No. 09/188,152 (the '152 application). Claim 1 of the '152 application was amended during prosecution and ultimately issued as Claim 1 in the '641 patent. A review of the prosecution history of the '152 application reveals that Claim 1 *as originally filed* with the '152 application included the "material positioned in the at least one groove" recitation. It is thus clear that the "material positioned in the at least one groove" recitation was not added to Claim 1 during prosecution to distinguish over prior art.

During prosecution of the '152 application, all of the claims originally filed with the application were rejected on the basis of the disclosure contained in U.S. Patent No. 5,002,336 to Feher. Responding to this rejection, Claim 1 originally submitted with the '152 application was amended in pertinent part to define that the groove in the filling member extends over a limited surface area of the filling member on the sitting side of the filling member. The accompanying remarks pointed out how this groove in the filling member which extends over a limited surface area of the filling member on the sitting side distinguished over the disclosure in Feher.

The Fig. 2 embodiment of the seat apparatus described in *Feher*, which is relied upon in the Official Action, includes an outer surface covering 34, a sheet 32 and a plurality of spring coils 36 that rest on the upper surface of the sheet 32. The springs 36 maintain an air passage 40 that extends throughout the entirety of the surface area of the seat 22 and backrest 24 as described in column 3, lines 58-60 of *Feher*. This air passage 40 is unable to prevent dispersion of the air throughout the entire seat as is the case with the present invention. It is thus clear that *Feher* is not at-all-concerned with providing a seat construction that directs temperature controlled air to only a selected region(s) of the seat to prevent the temperature controlled air from dispersing throughout the sitting portion prior to reaching the individual seated on the seat.

The Official Action observes that the area between the fitting 54 and the exit point 30 corresponds to the claimed groove formed in the filling material of the sitting portion in the present invention. However, that area between the fitting 54 and the exit point 30 is nothing more than the space between the upper and lower regions of the seat -- it is not a groove formed in a filler member. More importantly, as noted above, the area between the fitting 54 and the exit point 30 causes air to be distributed throughout the seat and is thus unable to distribute air to selected portions of the seat. To more clearly recite this distinction, the wording in Claim has been clarified to recite that the groove



extends over a limited surface area of the sitting portion  
(emphasis in original).

The prosecution history is thus clear on several points. First, the "material positioned in the at least one groove" recitation present in patent Claim 1 but absent from the new claims presented in this reissue application was not added during prosecution of the original patent to distinguish over prior art. Based on this, it cannot be said that applicant surrendered, under recapture, coverage for a claim not reciting such feature. In addition, the relevant amendments and arguments presented during prosecution to highlight differences in Claim 1 over the prior art applied by the Examiner involved defining that the groove in the filling member extends over a limited surface area of the filling member on the sitting side of the filling member. This language is present in each of the claims presented in this application for reissue.

It is thus apparent that the new claims in this application for reissue do not violate the recapture rule. Accordingly, withdrawal of the rejections based on a defective reissue Declaration under 35 U.S.C. § 251 and based on improper recapture is respectfully requested. To the extent the Examiner continues to believe that recapture is an issue with respect to the new claims presented in this application for reissue, the Examiner is kindly asked to provide a detailed explanation of the basis for such concern to facilitate applicant's understanding of the Examiner's position.

As a final point, applicants acknowledge that it will be necessary to submit a Supplemental Declaration under 37 C.F.R. § 1.175(b)(1) before this application will be

allowed. As suggested in § 1444 of the Manual of Patent Examining Procedure, applicants will wait until this application is in condition for allowance and will then submit a cumulative Supplemental Declaration under 37 C.F.R. § 1.175(b)(1).

Early and favorable action with respect to this application is respectfully requested.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful in resolving any remaining issues pertaining to this application, the undersigned respectfully requests that he be contacted at the number indicated below.

Respectfully submitted,

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Date: November 22, 2002



Attachment to Amendment dated November 22, 2002

**Mark-up of Claims 16, 17, 20, 21 22, 23, 25, 26 27, 28 and 34**

16. A seat apparatus for directing temperature controlled air to an individual seated on the seat apparatus, comprising:

a sitting portion contacted by a seated individual seated on the sitting portion, the sitting portion including a filling member, the sitting portion possessing a sitting side adapted to face an individual seated on the sitting portion and an oppositely positioned non-sitting side, said filling member including at least [one groove] three separate grooves each extending over a limited surface area of the filling member on the sitting side;

a cover member encircling the filling member;

an air vent provided in the filling member and extending from adjacent the non-sitting side of the sitting portion towards the sitting side of the sitting portion, one end of said air vent opening toward the sitting side and communicating with [the at least one groove] said at least three grooves; and

a temperature controlled air producing device for producing temperature controlled air and directing the temperature controlled air into an opposite end of the air vent, with the temperature controlled air being directed through the air vent and into [the at least one groove] said at least three separate grooves to provide temperature controlled air to a seated individual in contact with the sitting side of the sitting portion[]; and

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**Mark-up of Claims 16, 17, 20, 21 22, 23, 25, 26 27, 28 and 34**

a mesh member provided between the cover member and the filling member, the mesh member being positioned on a side of the filling member facing in a direction of the sitting side].

17. The seat apparatus according to Claim 16, wherein [said filling member includes a plurality of spaced apart grooves each extending over a limited surface area of the filling member, each of said grooves communicating with said air vent] said at least three grooves are located in areas to which high pressures are applied by an individual seated on the sitting portion.

20. The seat apparatus according to Claim 18, wherein said temperature controlled air producing device includes a peltier element communicated with the air vent that is in communication with said at least [one groove] three grooves of the filling member of the seat cushion.

21. A seat apparatus for directing temperature controlled air to an individual seated on the seat apparatus, comprising:

a seat cushion that includes a filling member, said seat cushion possessing a sitting side adapted to face towards an individual seated on the seat cushion and a non-sitting side;

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**Mark-up of Claims 16, 17, 20, 21 22, 23, 25, 26 27, 28 and 34**

a seat back that includes a filling member, the seat back possessing a sitting side adapted to face towards an individual seated on the seat back and a non-sitting side;

[at least one groove] a plurality of spaced apart grooves each extending over a limited surface area of the filling member of at least one of the seat cushion and the seat back, [the at least one groove] each of said plurality of spaced apart grooves opening in a direction towards the sitting side of said at least one of the seat cushion and the seat back;

a cover member encircling the filling member of at least one of the seat cushion and the seat back;

an air vent having one end communicated with [the at least one groove] said plurality of spaced apart grooves such that said plurality of grooves branch from said one end of the air vent;

a fan communicating with an opposite end of the air vent to direct air towards the air vent such that the air is fed into the air vent and is directed by way of said plurality of spaced apart grooves to selected portions of an individual in contact with the sitting side of said at least one of the seat cushion and the seat back; and

an air temperature controlling device positioned between the fan and the air vent to control a temperature of the air directed to the air vent and into [the at least one groove] said plurality of spaced apart grooves to provide temperature controlled air to the selected

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**Mark-up of Claims 16, 17, 20, 21 22, 23, 25, 26 27, 28 and 34**

portions of an individual [seated on] in contact with the sitting side of said at least one of  
the seat cushion and the seat back[; and

a mesh member provided between the cover member and the filling member that is  
encircled by the cover member, the mesh member being positioned on a side of the filling  
member encircled by the cover member that faces in a direction of the sitting side].

22. The seat apparatus according to Claim 21, wherein the [filling member of said  
at least one of the seat cushion and the seat back includes a] plurality of spaced apart  
grooves includes at least three spaced apart grooves each extending over a limited surface  
area of the filling member of said [at least one of the] seat cushion, said air vent being a  
single air vent constituting the only air vent in the filling member of the seat cushion so  
that all air from the fan is fed into the single air vent and is directed into [and the seat  
back,] each of said at least three grooves[ communicating with said air vent].

23. The seat apparatus according to Claim 21, wherein said [at least one groove  
is] plurality of grooves are provided in the filling member of the seat cushion, and  
including at least one groove extending over a limited surface area of the filling member of  
the seat back.

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**Mark-up of Claims 16, 17, 20, 21 22, 23, 25, 26 27, 28 and 34**

25. The seat apparatus according to Claim [18] 21, wherein the cover member encircles the filling member of the seat cushion, and including another cover member that encircles the filling member of the seat back and a mesh member provided between the another cover member and the filling member of the seat back.

26. A seat apparatus for directing temperature controlled air to an individual seated on the seat apparatus, comprising:

a seat cushion possessing a sitting side adapted to face towards a seated individual and a non-sitting side;

a seat back possessing a sitting side adapted to face towards a seated individual and a non-sitting side;

at least one of the seat cushion and the seat back including a filling member;

[at least one groove ] a plurality of spaced apart grooves each extending over a limited surface area of the filling member and opening in a direction towards the sitting side of the at least one of the seat cushion and the seat back, each of said plurality of spaced apart grooves extending to selected portions of the filling member;

a cover member encircling the filling member;

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**Mark-up of Claims 16, 17, 20, 21 22, 23, 25, 26 27, 28 and 34**

an air vent having one end communicated with the [at least one groove] plurality of spaced apart grooves such said plurality of spaced apart grooves branch from said one end of the air vent;

a peltier element communicating with an opposite end of the air vent to control a temperature of air [directed] fed to the air vent and [into the at least one groove] directed by way of said plurality of grooves to said selected portions of the filling member to provide temperature controlled air to an individual seated on said at least one of the seat cushion and the seat back[; and

a mesh member provided between the cover member and the filling member, the mesh member being positioned on a side of the filling member facing in a direction of the sitting side].

27. The seat apparatus according to Claim 26, wherein the air vent in the filling member is a single air vent constituting the only air vent in the filling member, each of the [includes a] plurality of spaced apart grooves [each extending over a limited surface area of the filling member] communicating with the single air vent.

28. The seat apparatus according to Claim 27, wherein each of the grooves has an end located at the one end of the single [communicates with the] air vent.



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**Mark-up of Claims 16, 17, 20, 21 22, 23, 25, 26 27, 28 and 34**

34. The seat apparatus according to Claim 26, wherein each of the [at least one groove] plurality of grooves includes side walls and a bottom wall.

35. The seat apparatus according to Claim 16, wherein said air vent is a single air vent constituting the only air vent in the filling member so that all temperature controlled air produced by the temperature controlled air producing device is directed through the single air vent.



**EXPLANATION OF CHANGES TO CLAIMS AND ADDED NEW  
CLAIMS, AND DISCUSSION OF EXAMPLES OF WHERE SUPPORT  
EXISTS IN THE DISCLOSURE OF U.S. PATENT NO. 6,062,641  
FOR SUCH CHANGES AND SUCH NEW CLAIMS**

At the time this application for reissue was filed, patent Claims 1-15 were maintained in their original form and new Claims 16-34 were presented for consideration.

The Amendment submitted concurrently with this paper does not cancel any of the patent claims, and does not cancel any of the new claims presented at the time the reissue application was filed. The concurrently filed Amendment presents three additional dependent claims, Claims 35-37. Thus, Claims 1-37 are pending in this application for reissue.

The Amendment submitted concurrently with this paper presents versions of new Claims 16, 17, 20, 21, 22, 23, 25, 26, 27, 28 and 34 that differ from the versions of those claims submitted with the Amendment filed on May 6, 2002. The differences between the versions of new Claims 16, 17, 20, 21, 22, 23, 25, 26, 27, 28 and 34 presented in this Amendment and the versions of those same claims presented in the Amendment filed on May 6, 2002 are discussed below. The discussion below also points out examples of where support exists in U.S. Patent No. 6,062,641 (the patent) for the language in new Claims 16, 17, 20, 21, 22, 23, 25, 26, 27, 28, 34 and 35.

**New Independent Claim 16**

One change to new independent Claim 16 involves changing the recitation of "at least one groove" to --at least three separate grooves--. Support for this change can be found in, for example, Figs. 3 and 4 of the patent which illustrate at least three separate grooves in the filling member.

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New independent Claim 16 has also been changed to now recite that one end of the air vent opens toward the sitting side of the filling member and communicates with the grooves. Support for this recitation can be found in, for example, Fig. 1 of the patent which shows one end of the air vent opening toward the sitting side of the filling member. Also, the description in column 2, lines 38-40 of the patent describes that the air vent is connected to or communicates with the grooves. The communication between the air vent and the grooves is also illustrated in Figs. 1, 3 and 4.

New Claim 16 has also been amended to recite that the temperature controlled air producing device which produces temperature controlled air directs the temperature controlled air into the opposite end of the air vent so that the temperature controlled air is directed through the air vent and into the three grooves. Support for this language can be found at, for example, the discussion in column 3, lines 36-44 of the patent, as well as the illustration in Fig. 1 of the patent.

The final change to Claim 16 involves the deletion of the wording reciting the mesh member which was added by way of the Amendment filed on May 6, 2002.

#### **New Dependent Claim 17**

New dependent Claim 17 has been amended, in light of the changes to Claim 16, to delete the language defining that the filling member includes a plurality of spaced apart grooves each extending over a limited surface area of the filling member, with each of the grooves communicating with the air vent. New Claim 17 now defines that the grooves are located in areas to which high pressures are applied by an individual seated on the sitting

portion. Support for this wording can be found in, for example, the discussion beginning near the bottom of column 3 and extending to the top of column 4 of the patent.

#### **New Dependent Claim 20**

New dependent Claim 20 has been changed to refer to --three grooves-- rather than "one groove" for purposes of consistency with respect to the wording in new Claim 16.

#### **New Independent Claim 21**

One of the changes to new independent Claim 21 involves changing the recitation of "at least one groove" to --a plurality of spaced apart grooves--. Support for this change can be found in, for example, Figs. 3 and 4 of the patent which illustrate a plurality of grooves in the filling member. The other recitations of the "at least one groove" in Claim 21 have also been changed in the same way for purposes of consistency.

New Claim 21 has also been changed to recite that one end of the air vent communicates with the grooves, and the grooves branch from the one end of the air vent. Support for this wording can be found in, for example, Figs. 3 and 4 of the patent, as well as the description in column 2, lines 38-43 of the patent.

Another change to new Claim 21 involves the language defining that the fan communicates with the opposite end of the air vent to direct air towards the air vent such that the air is fed into the air vent and is directed by way of the grooves to selected portions of an individual in contact with the sitting side of the seat cushion or seat back. This language is supported by, for example, the illustration in Fig. 1 of the patent showing that the fan associated with the seat cushion (seat back) communicates with the end of the

air vent of the filler member of the seat cushion (seat back). Also, the discussions in column 3, line 50-column 4, line 18, column 4, lines 42-50, and column 4, lines 56-62 of the patent support his recitation.

New Claim 21 also recites that the temperature controlled air is provided to the selected portions of an individual in contact with the sitting side of the seat cushion or seat back. Support for this wording can be found, for example, in the discussions in column 3, line 50-column 4, line 18, column 4, lines 42-50, and column 4, lines 56-62 of the patent.

The final change to new independent Claim 21 involves the deletion of the recitation of the mesh member which was added by way of the Amendment filed on May 6, 2002.

#### **New Dependent Claim 23**

New dependent Claim 23 presented in this Amendment differs from the version of new dependent Claim 23 presented in the Amendment filed on May 6, 2002 in that the recitation of the "at least one groove" has been changed to --plurality of grooves-- for purposes of consistency with the changes to new independent Claim 21.

#### **New Dependent Claim 25**

The only change involving new dependent Claim 25 involves changing the dependency from Claim 18 to Claim 21. This change has been made to correct an inadvertent typographical error.

### New Independent Claim 26

One of the changes to new independent Claim 26 involves changing the recitation of "at least one groove" to --a plurality of spaced apart grooves--. Support for this change can be found in, for example, Figs. 3 and 4 of the patent which illustrate a plurality of grooves in the filling member. The other recitations of the "at least one groove" in new independent Claim 26 have also been changed in the same way for purposes of consistency.

New independent Claim 26 also recites that each of the grooves extends to a selected portion of the filling member. This wording is supported by, for example, the discussions in column 3, line 50-column 4, line 18, column 4, lines 42-50, and column 4, lines 56-62 of the patent.

New independent Claim 26 also differs from the version of independent Claim 26 submitted with the Amendment filed on May 6, 2002 in that it recites that one end of the air vent communicates with the grooves such that the grooves branch from the one end of the air vent. Support for this language can be found in, for example, Figs. 3 and 4 of the patent, as well as the description in column 2, lines 38-43 of the patent.

Another change involving new independent Claim 26 presented here relates to the language defining that the peltier element communicates with the opposite end of the air vent to control the temperature of air fed to the air vent and directed by way of the grooves to the selected portions of the filling member. This language is supported by, for example, the illustrations in Figs. 1, 3 and 4 of the patent showing that the peltier element associated with the seat cushion (seat back) communicates with the end of the air vent for the filler member of the seat cushion (seat back). Also, the discussions in column 3, line 50-column

4, line 18, column 4, lines 42-50, and column 4, lines 56-62 of the patent support this wording.

The final change to new independent Claim 26 involves deleting the recitation of the mesh member which was added by way of the Amendment filed on May 6, 2002.

#### **New Dependent Claim 27**

New dependent Claim 27 presented here differs from the version of new dependent Claim 27 presented in the Amendment filed on May 6, 2002 in that it recites that the air vent in the filling member is a single air vent constituting the only air vent in the filling member. New dependent Claim 27 presented here also recites that each of the grooves communicates with the single air vent. Support for this wording can be found at, for example, the illustrations in Figs. 1, 3 and 4 of the patent, as well as the discussions in column 2, lines 30-32 and column 4, lines 19-21 describing an air vent. In addition, the descriptions in column 2, lines 39-41 and column 4, lines 21-23 describes the communication or connection of the grooves to the air vent.

#### **New Dependent Claim 28**

New dependent Claim 28 has been changed to recite that each of the grooves has an end located at one end of the single air vent. The illustrations in Figs. 3 and 4 of the patent provide examples of support for this claim wording.

#### **New Dependent Claim 34**

New dependent Claim 34 presented here differs from the version of new dependent Claim 34 presented in the Amendment filed on May 6, 2002 in that the recitation of "at least one groove" has been changed to --plurality of grooves-- for purposes of consistency with the similar change made to Claim 26.

#### **New Dependent Claim 35**

New dependent Claim 35 presented in this Amendment defines that the air vent is a single air vent constituting the only air vent in the filling member so that all temperature controlled air produced by the temperature controlled air producing device is directed through the single air vent. Support for this claim can be found in, for example, Figs. 1, 3 and 4.

#### **New Dependent Claim 36**

New dependent Claim 36 presented in this Amendment defines that the grooves are located in areas to which high pressures are applied by an individual seated on the sitting portion. Support for this wording can be found in, for example, the discussion at the bottom of column 3 and at the top of column 4 of the patent.



**New Dependent Claim 37**

New dependent Claim 37 presented in this Amendment defines that the grooves are located in areas to which high pressures are applied by an individual seated on the sitting portion. The discussion at the bottom of column 3 and at the top of column 4 of the patent is an example of where support for this wording can be found.